

MINUTES OF TTF CG MEETING
AS AMENDED

To: Distribution

From: Bob Hunnicutt, Tower Coordinator, Columbia Telecommunications

A meeting of the Telecommunications Transmission Facility Coordinating Group (TTF CG) was held on April 10, 2002. The following people were in attendance:

MEMBERS

Jane Lawton OCA (240) 777-3724

Michael Ma M-NCPPC (301) 495-4595

Pat Hanehan MCPS (301) 279-3609

Eric Carzon OMB (240) 777-2763

Dave Niblock DPS (240) 777-6252

Willem Van Aller DIST (240) 777-2994

STAFF

Amy Rowan OCA (240) 777-3684

Margie Williams OCA (240) 777-3762

Robert Hunnicutt CTC (410) 964-5700

Kamal Johari CTC (410) 964-5700

Lee Afflerbach CTC (410) 964-5700

OTHER ATTENDEES

Sean Hughes Nextel

Bill O'Brien VoiceStream (443) 570-1032

Steve Weber VoiceStream (571) 277-0235

Carolyn Mitchell Cingular

Jim Michal for Sprint PCS

Janet Brown for Sprint PCS

Tom Miller MIEMSS (410) 706-3207

Ed Ryan MD-DBM (410) 767-4219

Gerrit Veenhof MD-DBM (410) 767-6501

Jill Rapczynski Atl. Western (301) 883-2105

Dennis Were Atl. Western (301) 883-2118

Ed Donohue Cole, Raywid

Don Taylor Sprint PCS (301) 564-1829

Discussion item - Pending Text Amendment Legislation: Jane Lawton noted that legislation is still under review by the County Council and that the fee legislation would be discussed on Monday. Ed Donohue commented that he thought that the Council was waiting for Executive comments prior to taking up that matter. Ms. Lawton said that the Executive would be providing comments on the legislation but she was not aware that was a pre-condition to Council discussions.

Ms. Lawton also distributed a letter from Council President, Steve Silverman, regarding the fee setting legislation and statistics provided by the Tower Coordinator regarding average height of facilities.

Discussion item - Board of Appeals Case regarding inherent and non-inherent adverse effects: Ms. Lawton distributed a copy of a recent Board of Appeals Case regarding its attempt to address the inherent and non-inherent adverse effects of a telecommunications facility. She said that the Board concluded that monopolies are inherently adverse and that reason alone is not enough to deny a Special Exception.

Action Item: Approval of March 13, 2002 minutes: Pat Hanehan moved that the minutes be approved as

written. Eric Carzon seconded the motion and the minutes were unanimously approved.

Action: Consent Agenda Item: AT&T Wireless application to attach antennas at the 170' level of an existing 226' lattice tower located at 6300 Damascus Road in Laytonsville (Application #200203-03).

Motion: Dave Niblock moved the application be recommended. Willem Van Aller seconded the motion and the application was approved with Pat Hanehan abstaining.

Action Item: Maryland Department of Budget & Management application to attach State of Maryland 700 MHz public safety radio antennas at the 296' level on a 50' extension to an existing 250' lattice tower, bringing the tower total height to 300' AGL. The tower is located at Montgomery College - Germantown at 20200 Observation Drive in Germantown (Application #200203-02).

Bob Hunnicutt summarized the application and noted that the Tower Coordinator had a number of questions regarding this application. The questions, in part, related to: 1) the TFCG's recent recommendation of the nearby MPT tower which would also be accommodating State public safety radio antennas; 2) the coverage area for this kind of service is much larger than the group typically sees from cellular carriers; and 3) the fact that this tower was just recently constructed at 250'. He stated that the State was asked for propagation maps but they did not submit them. They were asked to be prepared to discuss coverage issues at today's meeting. He stated that the Tower Coordinator had also asked if the State site was funded, if the State planned to increase the height of other towers on which it planned to attach its 700 MHz antennas, when construction was expected to be performed, and if the 700 MHz service had been licensed by the FCC. He asked Lee Afflerbach to explain the coverage issues.

Mr. Afflerbach summarized the coverage questions and stated that this kind of service usually covers an area approximately 20-30 miles wide. He said he understood that the State planned to attach antennas to four towers in the I-270 corridor in Montgomery County and wondered if the State planned to increase the height of the other towers as well. He noted that the cost of constructing the towers is low relative to the overall statewide capital and operational costs of a large statewide system. He asked if the increase in the tower height was for an actual planned facility at this time or was it speculative in anticipation of attaching to towers at some future date.

Ed Ryan responded for the State of Maryland. He said when this tower was constructed at 250' by the State, the original plans called for the tower to potentially go up to 350' at a later date, depending on the State's needs. He noted that the State presently has FAA approval at 318'. He added that when the County attached its 800 MHz antennas, they extended into the space on the tower which the State had reserved for attaching its 700 MHz antennas. Consequently, the State could either increase the tower height or ask the County to move its towers. He noted that although the 700 MHz system is not ready to be activated, the State had asked the FCC for a waiver to use existing channels to provide that public safety service. He commented that the State had partnered with the County for this structure and had used the County's engineering studies for its 800 MHz service because the State's 700 MHz service was very similar in nature, and that is why they did not have propagation maps to submit to the Tower Coordinator. He noted that the County had determined that it was necessary for it to use three tower locations in the I-270 corridor, and the State planned to do the same since the systems are so similar in nature.

Jane Lawton asked what the antenna separation distance would be and who would own the structure. Mr. Ryan stated that the State owned the structure, and the vertical separation would be approximately 20'. Bob Hunnicutt commented that for the County to move its antennas would be further complicated by the fact that the cellular carriers have also now attached immediately below on the County towers and those antennas would have to be adjusted as well.

Ed Ryan commented that the State is limited in height at the Shady Grove site by the FAA to 250', so the State would not be proposing to increase the height at that existing tower. He stated that the Germantown tower, used in conjunction with the MCCF tower and the MPT tower, would be sufficient at this time to meet the State's coverage requirement. He added that they might have to revisit whether they have to increase the height of the MCCF facility in the future, once they get the service activated and experience actual coverage.

Bob Hunnicutt asked for clarification regarding the funding. Mr. Ryan stated that the project was funded. Willem Van Aller stated that the County had no objection to the 50' extension. Eric Carzon noted that the

proposed text amendment changes would restrict the height to 200'. Jane Lawton replied that was not the intent of the proposed legislation, according to the Council, and facilities could be higher if the carriers could show need. Michael Ma noted that the State was not subject to the zoning regulations.

Pat Hanehan asked if this would have to go through Mandatory Referral. Michael Ma stated that he had informed Mr. Hunnicutt that it would have to go through Mandatory Referral. Mr. Hunnicutt added that this was noted on the Tower Coordinator's recommendation form.

Eric Carzon asked if the extension, as well as the service activation, had been funded. Ed Ryan replied that the State's existing communications system is all presently funded to provide and activate equipment. He stated that because of potential conflicts with existing broadcast television stations, they may not be able to immediately activate their 700 MHz services, but they will most likely enhance existing services at this tower on the extension. He noted they have requested a waiver from the FCC to use channels already granted to the State for those purposes until issues regarding the 700 MHz service are resolved.

Lee Afflerbach asked where the State currently has its public safety base stations. Mr. Ryan replied that the State Police currently have a facility in Rockville, but coverage in the County has holes which the State can enhance by use of any of these three antenna locations. He stated they would not know for sure which towers they will use until they complete their own engineering studies. Mr. Afflerbach noted that it appeared as though these towers would also be used as locations for the State to share or combine its existing public safety, natural resources, and highway maintenance radio networks which presently appear to be fragmented. Mr. Ryan agreed that was true.

Eric Carzon stated he would probably abstain from this vote since he participated in the agreement with the State to construct these towers. Mr. Van Aller stated he did not believe that was necessary since the original State agreement did not have a solid coverage plan at the time the agreement was negotiated. He stated that in the interim, these other issues have come to light.

Mr. Carzon agreed that these facilities were a good use of public resources but that with the State's next application, he would prefer to have the State submit a better-written explanation for all of these issues with the application. He stated that providing more justification answers these questions in advance of the issues being raised, and would be most helpful for the TTFCG and others reviewing these kinds of projects. Jane Lawton concurred and noted that this was especially important for providing a public record of the discussion on these technical matters.

Motion: Dave Niblock moved the application be recommended. Pat Hanehan seconded the motion and it was approved with Eric Carzon abstaining.

Action Item: VoiceStream Wireless application to install one omni-directional receive-only antenna and one GPS antenna at all existing VoiceStream telecommunications facilities to comply with the Federally mandated E-911 system (Application #200203-04).

Jane Lawton summarized the application and asked how many sites were involved with this application. Bill O'Brien said that approximately 75 sites would be receiving these antennas. He added that since the application had been filed, a final determination regarding the exact nature of the antennas had been made, and they are much shorter than expected. He said the current antenna height would be 4 inches and there may be a need for 2-3 at each location. Eric Carzon asked if this had to go to the Park & Planning Commission for their review, and felt it may be inappropriate for the TTFCG to review a blanket application for this many sites, when some of the sites may be there by Special Exception. Bob Hunnicutt stated that he did not believe that these would need to go before the Board of Appeals or the Park & Planning Commission as they were simply attaching small antennas to the existing structure. Bill O'Brien stated he believed these would be considered accessory use at the sites and that these were also being added to the facilities pursuant to FCC requirements for 911 enhancements of cellular systems. He noted that Permitting Services had already determined that they would not need a permit to add these small antennas. Jane Lawton suggested that the TTFCG simply send a letter to the Board of Appeals to advise them of its action on this application and to bring the matter to their attention. That way, in the event any Board of Appeals action was necessary, they would at least have notice of these additional attachments.

Motion: Willem Van Aller moved the application be recommended. Dave Niblock seconded the motion and it

was unanimously approved.

Action Item: Sprint PCS application to construct a new 100' flagpole/monopole and flush mount 3 panel antennas inside the pole to be located at the Wesley Grove United Methodist Church at 23612 Woodfield Road in Gaithersburg (Application #200202-02).

Bob Hunnicutt summarized the application and noted that there was discussion with the applicant regarding whether this was a flagpole or a monopole and he had determined that it was a monopole made by a tower manufacturer and would require a Special Exception. He stated that the applicant also believed that since the two separate parcels were owned by the same entity, setback requirements applied to perimeter lot lines. Mr. Hunnicutt stated that upon checking with the County Attorney, he was advised that setback requirements applied to interior lot lines in cases where adjoining parcels are owned by the same entity. He added that this monopole, as presently proposed, was approximately 25 feet from the interior lot line, and because this does not meet zoning setback requirements, he did not recommend this application.

Jim Michal stated that he disagreed with the Tower Coordinator's finding. He stated that in the District of Columbia and in Calvert County, flagpole/monopoles had been ruled to be a flagpole, and he wanted it reflected in the minutes that he strongly disagrees with this finding. He added that he also strongly disagrees with the County Attorney's interpretation regarding setback from interior lot lines, and that the County Attorney ignores a court case citation provided to him by Mr. Michal regarding this matter. He said that he would do whatever was necessary to pursue this application, and, if it included going before the Board of Appeals, he would argue his case there. He also said he was very concerned that the Tower Coordinator is going beyond his authority in addressing zoning issues. He stated that the TTFCG should only consider the technical issues involved in these applications. Bob Hunnicutt noted that the Executive Regulation requires the Tower Coordinator to develop a siting recommendation to the TTFCG based, in part, on zoning standards.

Jane Lawton commented that there does not appear to be any way that this application could meet the proposed text amendments, either. Mr. Van Aller stated that if one of the lots were sold, then there would be a non-conforming structure which had been permitted by the County to be placed there. Dave Niblock stated that is why the Department of Permitting Services had not issued a building permit for a flagpole at this location, as had been requested by Mr. Michal. Eric Carzon stated that he did not believe that the TTFCG could approve an application that did not comply with the zoning ordinance. Michael Ma asked for clarification as to whether or not Mr. Michal believed that this siting would require a Special Exception. Mr. Michal replied that he did not believe that this facility does require a Special Exception.

Jane Lawton noted that apparently the applicant disagrees that this siting: 1) requires a Special Exception, 2) does not meet zoning requirements, 3) is a monopole. She noted that if the zoning text amendments are adopted as presently written, there would be a fourth level where this application could not go forward. Dave Niblock stated that the Director of the Department of Permitting Services, Robert Hubbard, agreed with him that they would not issue a permit for this facility without a Special Exception because they view it as a telecommunications monopole.

Ed Donohue asked the Tower Coordinator to comment on the stealth and coverage aspects of this application. Bob Hunnicutt stated that clearly the TTFCG had encouraged stealth applications such as tree poles, use of concealment of antennas in steeples as well as flagpoles. He said he approved of the flagpole concept and that the carrier had demonstrated a gap in their service area which this facility appeared to fill.

Mr. Donohue added that in the AT&T application in the District of Columbia, it was determined that this type of facility was a flagpole and, as such, it was a permitted use. Jim Michal added that if the concern over the siting was the size of the flagpole, it was possible to design it to be a smaller facility, but it would mean that it could not accommodate additional carriers. Michael Ma asked how many other carriers this facility could accommodate. Mr. Michal stated that two other carriers could attach to this facility using a similar antenna configuration at its current height.

There was general discussion among the group members as to how to approach this application given the circumstances. Eric Carzon suggested that they could recommend the application conditioned on the carrier obtaining a waiver for the setback requirements.

Jane Lawton asked if the group believed this siting merited recommendation, setting the zoning issues aside.

The group agreed that it did because it was a stealth application and met the carrier's coverage objectives. Dave Niblock agreed that he could vote for recommending this application subject to meeting Special Exception and zoning requirements. Jane Lawton stated that she believed that the recommendation should indicate that the group agreed with the Tower Coordinator's information provided in the recommendation. Eric Carzon was concerned this might set a precedent if it violates zoning and the TTFCG ignored that issue. Jane Lawton agreed. Mr. Van Aller said he did not believe it was necessary for the TTFCG to address the issue of whether it was a flagpole or a monopole. Ms. Lawton stated that she agrees that it is a telecommunications facility. Michael Ma and Pat Hanehan stated that they believed that if the group voted to recommend this application, they should not mention anything about obtaining a variance. Dave Niblock stated that the Board of Appeals could grant a variance as part of a Special Exception. Ms. Lawton said that this kind of issue could be added to the list of proposed text amendments.

Motion: Willem Van Aller moved that the application be recommended on the basis that it is a telecommunications structure and that it needs a Special Exception. Pat Hanehan seconded the motion and it was approved with Jane Lawton and Dave Niblock abstaining.

Discussion Item - Park & Planning Commission Determination of Need: Jane Lawton stated that there was discussion at the Park & Planning Commission that it was unclear as to how the final resolution of some of the issues raised in their comments would be resolved. She noted that there were several recommendations that were not addressed in the discussions with either the Park & Planning Commission or with the Council's PHED Committee. She was concerned because the issue of whether or not the Park & Planning Commission would have to find the necessity of need for telecommunications facilities had not been discussed. She stated that the TTFCG conducts a technical review of applications, but had been advised by the Park & Planning Commission that it believed it had to make a determination of need for a telecommunications facility. But she noted, the Board later reversed their opinion on that matter. She said that presently, however, the comments submitted by the Park & Planning Commission to the PHED Committee do not reflect that change in position.

Michael Ma explained that there were two separate actions on these matters. The first was the Park & Planning Commission's comments on broad changes to the 44 categories of Special Exception in the present code. He said that telecommunications facilities is one of these 44 categories. He said in that filing, the Park & Planning Commission determined that it must find need. When the PHED Committee reviewed that legislative package, it agreed that the Park & Planning Commission is required to make a determination of need for telecommunications facilities. He said that in the Park & Planning Commission's staff review of the second, and most current, package of legislative changes, the comments prepared were written to be consistent with the determination of the Commission and the PHED Committee with regard to this matter as decided in its deliberation of the broader Special Exception package of legislative changes. Jane Lawton said she still believed that was a problem because the MFP committee has not discussed this issue at all and does not know that the Park & Planning Commission has since reversed itself on this matter. Mr. Ma noted that the Council would see the full package next week. Ms. Lawton stated this matter should have been brought to the floor for discussion and would like to see a copy of the staff report where it is discussed. Mr. Ma agreed to provide that information to Ms. Lawton.

Ms. Lawton stated that another concern was that the present legislation appears to limit the height of structures at 199' but that was not the intention of the Council. She stated that she had reviewed this with Marilyn Praisner and that the intent was that the limit would apply unless the carrier could demonstrate a need to exceed that limitation. She added, however, that there was still concern that the need only related to co-location and not to technical issues as had been discussed at the Park & Planning Commission last week. She also stated that it was not clear whether a waiver for cases where distances between facilities should be considered.

Regarding the fee issue, Ms. Lawton stated that Ms. Praisner had advised her that the \$10,000 fee is a placeholder, and the Council would expect that the County Executive would actually set fees once this legislation is enacted. Ms. Lawton said she thought that perhaps two different levels of review with two different associated costs would be more appropriate than a single fee to cover all kinds of applications regardless of their nature. Ms. Lawton added that the costs were intended to cover the consultant's costs for review of applications. Mr. Van Aller stated that as the Administrator for the contract for the Tower Coordinator, he said the consultant costs were averaging \$12,000-15,000 per month to support the TTFCG. Eric Carzon stated that he did not believe anyone would support using an average fee, regardless of the nature of the application, and

suggested a nominal fee of perhaps \$500 for simple filings. Ms. Lawton stated that she recalled that the Tower Coordinator's average cost per application had increased over the last few years from \$1,100 to \$1,400, and more recently, to \$1,800. She noted that the more controversial applications drove those costs, and that the many simple, straightforward, by-right attachments did not incur those kinds of costs as part of the Tower Coordinator's review. She noted that perhaps 90% of the applications were by-right co-location applications. Lee Afflerbach added that perhaps a system could be established similar to what the FCC provides. He noted that the FCC charges an application fee, a review fee, and also a grant fee once the application is approved, because some applications are not granted in the end, or are withdrawn by the applicant.

The next meeting of the TTFCG is scheduled for Wednesday, May 8, 2002 at 2:00 p.m. in the 2nd floor conference room #225 of the COB.

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